

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

WORLDNET TELECOMMUNICATIONS
INC.,

Plaintiff,

v.

TELECOMMUNICATIONS REGULATORY
BOARD OF PUERTO RICO, et al.,

Defendants.

Civil No. 04-2051 (JAF)
(Consolidated with
04-2073 (JAF))

O R D E R

On April 4, 2005, we referred five motions for summary judgment to Magistrate Judge Arenas for a Report and Recommendation. Docket Document Nos. 42, 43, 44, 59, 60. On October 5, 2005, Magistrate Judge Arenas issued the Report and Recommendation. Docket Document No. 87. On October 20, 2005, Plaintiff Worldnet Telecommunications, Defendant Puerto Rico Telephone Company ("PRT"), and Defendant Telecommunications Regulatory Board of Puerto Rico ("TRB") all filed objections. Docket Document Nos. 89, 9192. All parties filed oppositions to each other's objections on November 3, 2005. Docket Document Nos. 96. 97, 98, 99.

We have carefully reviewed Magistrate Judge Arenas' exceptionally thorough and carefully-considered Report and Recommendation, as well as the parties' respective objections. The few issues raised in the objections that have not already been

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1 addressed in the Magistrate Judge's decision are groundless and, with
2 one exception, not worthy of further discussion. Accordingly, we
3 **APPROVE** and **ADOPT** the Report and Recommendation in its entirety.
4 Docket Document No. 87.

5 We pause only to address Defendant PRT's ripeness objection
6 regarding the recommendation that Defendant TRB revisit whether PRT
7 must make telecommunications services available for resale when it
8 receives such services through an affiliated entity. Docket Document
9 No. 92. Defendant PRT argues that we are not empowered to direct
10 Defendant TRB to issue an advisory opinion on a matter that is not
11 ripe for adjudication. Id. While we are not empowered to address
12 matters that are not ripe for adjudication, Defendant TRB is not so
13 encumbered. Accordingly, Magistrate Judge Arenas merely recommended-
14 not directed- Defendant TRB to issue an opinion on the above-stated
15 issue. This recommendation should not be construed as a compulsory
16 mandate.

17 In all other respects, the Report and Recommendation requires no
18 further clarification. Id. This order, therefore, disposes of all
19 motions that were submitted to the Magistrate Judge for
20 consideration. Docket Document Nos. 42, 43, 44, 59, 60.

21 Furthermore, we note that Plaintiff's May 6, 2005 motion for
22 summary judgment is still pending, as it was submitted after our
23 referral of this matter to the Magistrate Judge and was not
24 considered in the Report and Recommendation. Docket Document No. 72.

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1 The issues raised in the outstanding motion, which takes aim at
2 Defendant TRB's *Second Order on Reconsideration*, have been squarely
3 addressed in Part VIII of the Report and Recommendation.
4 Specifically, Magistrate Judge Arenas found that "the TRB was correct
5 in concluding that it lacked the authority to force PRT to resell any
6 non-communications services found in any of its bundled offerings at
7 wholesale rates to Worldnet." Docket Document No. 87. We, therefore,
8 **DENY** Plaintiff's motion for summary judgment. Docket Document No. 72.

9 In accordance with the foregoing, Plaintiff Worldnet's first
10 motion for summary judgment is **GRANTED in part and DENIED in part**.
11 Docket Document No. 42. Defendant PRT's motion for summary judgment
12 is **GRANTED in part and DENIED in part**. Docket Document No. 43.
13 Defendant TRB's motion for summary judgment is **GRANTED in part and**
14 **DENIED in part**. Docket Document No. 44. Defendant TRB's second
15 motion for summary judgment is **GRANTED**. Docket Document No. 59.
16 Defendant PRT's second motion for summary judgment is **GRANTED**.
17 Docket Document No. 60. Plaintiff Worldnet's second motion for
18 summary judgment is **DENIED**. Docket Document No. 72. Judgment shall
19 be entered accordingly.

20 This case is now closed.

21 **IT IS SO ORDERED.**

22 San Juan, Puerto Rico, this 2nd day of February, 2006.

23 S/José Antonio Fusté
24 JOSE ANTONIO FUSTE

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Chief U. S. District Judge